REMARKS

Claims 20, 22-34, 36-40, and 42-50, and 52-56 are currently pending. The claims have not been amended by this Reply.

In the Office Action, the Examiner restricted the Application into several allegedly distinct species, as detailed below.

(1) With regard to claims for processes for enhancing commercial poultry breeder operations, the Examiner restricted the claims into two species:

- Species 1: process using a citrus feed supplement at a concentration of not more than 1.6 weight percent (e.g., claim 20); and

- Species 2: process using a citrus feed supplement at a concentration of not more than 2.0 weight percent (e.g., claim 38).

(2) With regard to claims for methods using citrus feed supplements, the Examiner restricted the claims into two species:

- Species A: supplement comprising particles of dried citrus byproduct flake (e.g., claims 25 and 47); and

- Species B: supplement comprising particles of pelletized dried citrus byproduct (e.g., claims 26 and 48).

(3) With regard to claims for methods including providing the citrus feed supplement, the Examiner restricted the claims into two species:

- Species I: method where the citrus feed supplement is placed into a poultry feed diet without purifying the citrus byproduct (e.g., claims 32 and 52); and

- Species II: method where the citrus feed supplement is placed into a poultry feed diet without extracting the citrus byproduct (e.g., claims 33 and 53).

The Examiner asserts that these restrictions are proper because the claims recite "mutually exclusive characteristics" of such species. Applicant traverses the Examiner's restriction, on the basis that these species are not mutually exclusive.

It appears that the Examiner is misapplying the term "mutually exclusive." The definition of "mutually exclusive" is addressed in MPEP 806.04(f) as relating to different species:

806.04(f) Restriction Between Mutually Exclusive Species

> Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations *disclosed* for a first species but not a second, while a second claim recites limitations *disclosed* only for the second species and not the first. *This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.* (Emphasis added).

The Examiner has not shown all the claims to relate to "mutually exclusive" species. It appears that the Examiner is misreading the term "disclosed" to relate to the recitations of an individual claim. This is incorrect. The term "disclosed" (italicized above) in this section relates to the disclosure in the specification, not to the claims viewed solely in a vacuum. Additionally, the Examiner is ignoring the requirement that "the claims must not overlap in scope" in order to be mutually exclusive species. In other words, "mutually exclusive" species are species of an invention that can *never* be used together. Applicant addresses each of the species restrictions separately below.

1. Species 1 and 2

Species 1 and 2 (e.g., claims 20 and 38) cannot be considered to be mutually exclusive species for several reasons. First, the claim features in question clearly overlap in scope. A concentration of "not more than about 1.6 weight percent" and a concentration of "not more than about 2 weight percent" clearly overlap, as both claims cover concentrations from 0 to about 1.6 weight percent. For this reason, the claims cannot be mutually exclusive. Additionally, the features are not disclosed as mutually exclusive species. A composition having 32 pounds of supplement per ton (e.g., disclosed Composition 4) has both a concentration of "not more than about 1.6 weight percent" and a concentration of "not more than about 2 weight percent." Thus,

these features are not mutually exclusive species, and the Examiner's restriction is not proper. Applicant respectfully requests withdrawal of the restriction between species 1 and 2.

As required, Applicant elects Species 1 for further prosecution, should the Examiner maintain the restriction requirement. At least claims 20, 22-34, 36-37, 42, 45, 46, and 54 are supported by Species 1.

2. Species A and B

Species A and B (e.g., claims 25 and 26) cannot be considered to be mutually exclusive species for several reasons. First, the claim features in question overlap in scope, as both claims cover a composition containing *both* dried citrus byproduct flake and pelletized dried citrus byproduct. For this reason, the claims cannot be mutually exclusive. Additionally, the features are not disclosed as mutually exclusive species. The specification discloses these features as being usable together in multiple instances. For example, in Par. 50: "Each is provided by citrus byproduct such as citrus peel and pulp byproducts, including in flake and pellet form," and in Par. 59: "In addition to being provided as flaked material, the citrus waste can also be reshaped into pelletized form." Thus, these features are not mutually exclusive species, and the Examiner's restriction is not proper. Applicant respectfully requests withdrawal of the restriction between Species A and B.

As required, Applicant elects Species B for further prosecution, should the Examiner maintain the restriction requirement. At least claims 20, 22-24, 26-34, 36-40, 42-46, 48-50, and 52-56 are supported by Species B.

3. Species I and II

Species I and II (e.g., claims 20 and 38) cannot be considered to be mutually exclusive species for several reasons. First, the claim features in question overlap in scope, as both claims cover methods where the citrus feed supplement is provided in its "native state," without purifying or extracting the citrus byproduct present in the citrus feed supplement. For this reason, the claims cannot be mutually exclusive. Additionally, the features are not disclosed as mutually exclusive species. In fact, these features are disclosed as being advantageously used *together*. For example, in Par. 58: "For economic and positive environmental and organic

reasons, the components can be used as is and without requiring extraction, purification or isolation of the individual chemicals. They can be provided in their native state and in the valuable combinations already present in dried citrus peel and/or pulp." Thus, these features are not mutually exclusive species, and the Examiner's restriction is not proper. Applicant respectfully requests withdrawal of the restriction between Species I and II.

As required, Applicant elects Species II for further prosecution, should the Examiner maintain the restriction requirement. At least claims 20, 22-31, 33-34, 36-40, 42-50, and 53-56 are supported by Species II.

In total, at least claims 20, 22-24, 26-31, 33-34, 36-37, 42, 45, 46, and 54 are supported by all elected Species 1, B, and II.

CONCLUSION

In view of the foregoing, Applicant submits that the Examiner's restriction requirement has been fully traversed, and respectfully requests reconsideration and withdrawal of the restriction requirement in the present Application. Applicant submits that the Application is in condition for allowance and respectfully requests an early notice of the same.

Please charge all fees in connection with this communication to Deposit Account No. 19-0733.

Respectfully submitted,

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